

AN ACT

relating to the exemption from regulation of certain charitable, religious, or civic organizations engaged in auction activities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1802.002, Occupations Code, is amended to read as follows:

Sec. 1802.002. APPLICABILITY. This chapter does not apply to:

(1) a sale conducted by order of a United States court under Title 11, United States Code;

(2) a sale conducted by an employee of the United States, this state, or a political subdivision of this state in the course and scope of employment;

(3) a sale conducted by a charitable, religious, or civic [or nonprofit] organization, including an organization having a tax exempt status under Section 501(c), Internal Revenue Code of 1986, or organized as a nonprofit entity, if the person organizing, arranging, or conducting the auction [auctioneer] receives no compensation;

(4) a sale conducted by an individual of the individual's property if the individual is not engaged in the business of selling property as an auctioneer on a recurring basis;

(5) a foreclosure sale of real property personally conducted by a trustee under a deed of trust;

1           (6) a foreclosure sale of personal property personally  
2 conducted by:

3                   (A) a person who holds a security interest in the  
4 property, including a mortgage; or

5                   (B) an employee or agent of a person described by  
6 Paragraph (A) acting in the course and scope of employment, if:

7                           (i) the employee or agent is not otherwise  
8 engaged in the auction business; and

9                           (ii) all property for sale in the auction is  
10 subject to a security agreement;

11           (7) a sale conducted by sealed bid;

12           (8) an auction conducted only for student training  
13 purposes as part of a course of study approved by the executive  
14 director for auctioneers;

15           (9) an auction conducted by a posted stockyard or  
16 market agency as defined by the federal Packers and Stockyards Act  
17 (7 U.S.C. Section 181 et seq.), as amended;

18           (10) an auction of livestock conducted by a nonprofit  
19 livestock trade association chartered in this state, if the auction  
20 involves only the sale of livestock owned by members of the trade  
21 association; or

22           (11) an auction conducted by a charitable or nonprofit  
23 organization chartered in this state, if the auction:

24                   (A) is part of a fair that is organized under  
25 state, county, or municipal authority; and

26                   (B) involves only the sale of property owned by  
27 the organization's members.

1           SECTION 2. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect September 1, 2007.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 365 was passed by the House on March 28, 2007, by the following vote: Yeas 145, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 365 was passed by the Senate on May 10, 2007, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor